

State of California

Department of Education

# INFORMATION MEMORANDUM

**DATE:** July 29, 2004

**TO:** MEMBERS, STATE BOARD OF EDUCATION

**FROM:** William J. Ellerbee, Jr., Deputy Superintendent  
School and District Operations Branch

**SUBJECT:** Assembly Bill 1994: Statewide Charter Schools: Proposed Regulations

## Background

Assembly Bill (AB) 1994 (Chapter 1058, Statutes of 2002) contained a number of significant programmatic provisions affecting charter schools, and the bill requires the State Board of Education (SBE) to adopt regulations to implement certain aspects of the statutory changes. The Advisory Commission on Charter Schools (ACCS) discussed various versions of AB 1994 programmatic implementation regulations on several occasions, both in concept and with regard to certain specific elements. During August 2003, SBE members received an information memorandum with a version of the proposed regulations that the ACCS had tentatively endorsed in July. However, at its September 2003 meeting, the ACCS considered the regulations further and proposed several significant changes. The proposed regulations were never presented to the SBE for the purposes of initiating the rulemaking process.

The proposed regulations in this information memorandum reflect the changes requested by the ACCS. The ACCS will review this draft at its August 11, 2004 meeting. Their final recommendations will be submitted to the SBE in September.

## Analysis

The draft proposed regulations are divided into three major sections: Appeals of Charter Denials, Statewide Charter Schools and Charter School "Numbering System." Each major section is identified below (along with the corresponding pages of the attachment), and the highlights of the sections are then listed. In the attachment, the actual language of the relevant statute is shown before each of the major sections to help provide context for the draft of proposed regulations that follow.

Appeals of Charter Denials  
Attachment Pages 1-2

- Clarifies existing regulations to correspond with the new statutory requirement that charters denied by local school districts may only appeal to the SBE after first appealing to (and denied by) the county board of education.
- Specifies that the charter petitioners who are submitting an appeal are to provide a copy of written factual findings justifying the denial of the petition at the district or county level, when they are available.
- Requires that the county board of education or the SBE deny a petition for the establishment of a charter school only if it makes written factual findings to support one or more of the grounds for denial that have been established in *Education Code*.

Statewide Charter Schools  
Attachment Pages 2-6

- Elaborates upon the new creation of AB 1994: statewide charter schools. A petition to establish a statewide charter school is to be submitted directly to the State Board of Education. A key provision of statute is that a statewide charter school must provide instructional services of statewide benefit that cannot be provided by a charter school operating in only one school district, or only in one county.
- Specifies that a statewide charter must initially commence instruction in at least two different sites, and that the sites must be in different school districts or two different counties.
- Clarifies that it must comply with all requirements of law relative to the provision of independent study; more specifically, a charter that does not expressly provide for independent study shall not be interpreted as allowing independent study beyond that which is incidental and required to address the temporary needs of particular students.
- Requires that the petitions for statewide charter schools include an assurance that the instructional services for similar student populations will be essentially similar at each site and that each pupil's educational experience will be reasonably the same regarding instructional methods.
- Requires petitions to include a variety of key educational and operational elements, including how the school and its various sites will participate in special educational local plan areas (SELPA).
- Provides for the orderly expansion of a statewide charter school. Following its submission, the petition may be modified or new sites proposed that were not included in the original petition only with the approval of the SBE.

- Requires petitioners to make their case for “statewide benefit” based upon uniqueness of the educational program and the demonstration of benefit to pupils, communities, the state, and (as applicable) the school itself.
- Establishes funding specifications for state charter schools that are approved by the SBE, including the assignment of various fiscal duties to a county office of education.

Charter School “Numbering System”

Attachment Page 7

- Assigns responsibility for maintenance of a charter school “numbering system” (as specified in AB 1994) with CDE.
- Establishes that if a charter school ceases to operate through voluntary surrender, revocation, or non-renewal of its charter, its number will lapse and will not be reassigned. Therefore, the highest charter number bears no relationship to how many charter schools are actually operating in the state.
- Specifies that if we ever reach the cap on the number of charter schools that may operate in the state, requests for new numbers will be placed on a list in the order received by the SBE.

Attachment 1: Proposed Regulations (7 Pages)